

Notice of Allowability

Application No.

10/780,935

Applicant(s)

BUHRMAN, GARY

Examiner

Andrea M. Valenti

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 26 September 2005.
2. ☒ The allowed claim(s) is/are 1, 5, 8-19.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying Indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Jonathan P. Soifer on 01 December 2005.

The application has been amended as follows:

Claim 1, line 13, "without the use of glue" was changed to --without the use of adhesive.--

Claim 4 was cancelled

Claim 15, line 11, "without the use of glue" was changed to --without the use of adhesive.--

Claim 18, line 3, "heat or by chemically boding" was changed to --heat or by chemically bonding--

Claim 20 was cancelled

Allowable Subject Matter

Claims 1, 5, 8-19 are allowed.

The following is an examiner's statement of reasons for allowance:

Cited references U.S. Patent No. 4,617,198; U.S. Patent No. 5,395,467; English translation of *Horticulture Mulching Mat, Method of Manufacturing Thereof, and Use Thereof in Flower Beds*, French Patent FR 2768018 to Michel Chamoulaud, 13 pages

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plus cover page; U.S. Patent No. 5,323,557; U.S. Patent No. 5,105,577; U.S. Patent No. 4,910,052; U.S. Patent No. 3,067,542; U.S. Patent No. 5,330,804; U.S. Patent No. 4,062,145; U.S. Patent No. 4,794,726; U.S. Patent No. 5,502,921; U.S. Patent No. 3,870,583; U.S. Patent No. 5,910,514; Japanese Patent JP 06153688; U.S. Patent No. 5,396,731; U.S. Patent Pub. No. US 2004/0197146; U.S. Patent Pub. No. US 2004/0200140; U.S. Patent No. 1,949,068; U.S. Patent No. 6,287,049; U.S. Patent Pub. No. US 2004/0069924; U.S. Patent Pub. No. US 2005/0229481 teach that it is known to make artificial mulch with a natural wood appearance out of shredded rubber tires; it is known to fabricate a mulch mat/carpet made out of shredded rubber; and that it is known to bond a base material with an artificial top mulch material.

However, the prior art of record all fails to show, and fails to make obvious, either alone and/or in combination a rubber base material that is flexible and porous; an artificial mulch made from shredded rubber tires bonded to the upper surface of the rubber base only along a lower portion of the artificial mulch-like material such that an upper portion of the artificial mulch-like material is exposed; and bonding is done without the use of adhesive.

Applicant's use of "Consisting of" language excludes any element, step, or ingredient not specified in the claim closing the claim to inclusion of materials other than those recited within the claim. All of the prior art references of record do not meet the "consisting of" requirement since they contain additional elements, steps, and ingredients than what applicant has set forth in the claim.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 571-272-6895. The examiner can normally be reached on 7:00am-5:30pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Andrea M. Valenti
Primary Patent Examiner
Art Unit 3643

01 December 2005